

REMARKS

Claims 1-24 and 37-50 are all the claims pending in the application. By this Amendment, Applicant amends claims 12 and 49 to further clarify the invention and adds claim 51, which is clearly supported throughout the specification.

I. Summary of the Office Action

The Examiner maintained the rejection of claims 43, 44, and 50 under 35 U.S.C. § 112, first paragraph. The Examiner withdrew the previous grounds of prior art rejections. The Examiner, however, found new grounds for rejecting the claims. Specifically, claims 1-3, 5-12, 15-24, 37-42, and 45-49 are rejected under 35 U.S.C. § 103(a). Claim 50 is not rejected over the prior art of record and as such appears to contain subject matter allowable over the art of record.

II. Claim Rejections under 35 U.S.C. § 112, first paragraph

Claims 43, 44, and 50 are rejected under 35 U.S.C. § 112, first paragraph. Applicant respectfully traverses these grounds of rejection at least in view of the following exemplary comments.

Regarding claims 43 and 44, the Examiner contends that the specification, as originally filed, never specifically discloses a distance (*see* page 3 of the Office Action). However, Applicant respectfully submits that one of ordinary skill in the art would readily understand in light of the specification that these distances are commonly known with a short-range communication.¹ These arguments remain unaddressed by the Examiner. That is, Applicant

¹ <http://en.wikipedia.org/wiki/Bluetooth>, last visited August 23, 2007.

respectfully submits that these distances are not new matter in light of the common knowledge and the specification that discloses short range communication and Bluetooth protocol.

Regarding claim 50, the Examiner contends that only ¶¶ 4, 22, and 60 of the specification disclose visualization but do not provide support for what is claimed (*see* page 2 of the Office Action). Applicant respectfully disagrees and traverses these grounds of rejection at least in view of the following comments. It appears the Examiner did not review the paragraphs of the specification provided by the Applicant in support of claim 50. Accordingly, Applicant briefly discusses these exemplary passages herein below.

For example, ¶ 21 of the specification discloses an exemplary embodiment of the present invention where the HMI is downloaded or uploaded as a function of location of the assigned mobile control unit and particularly as a function of the distance from the technical installation. ¶ 22 of the specification further discloses an exemplary embodiment where certain operations are blocked when the operator is out of visual range and certain other operations may be blocked when the operator is too close to the technical installation. Accordingly, at least these non-limiting embodiments of the present invention clearly disclose that different types of HMI data will be transmitted depending on whether the technical installation is visible from a location of the mobile control unit.

At least these exemplary embodiments clearly support the above-noted features of claim 50. Therefore, Applicant respectfully requests that this rejection of claim 50 be withdrawn.

III. Prior Art Rejections

Claims 1-3, 5-12, 15-24, 37-42, and 45-49 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,167,464 to Kretschmann (hereinafter “Kretschmann”) in view of U.S. Patent No. 7,017,116 to Elsbree et al. (hereinafter “Elsbree”). Applicant

respectfully traverses these grounds of rejection at least in view of the following exemplary comments.

Of these rejected claims, only claims 1 and 15 are independent. This response at least initially focuses on claim 1. Independent claim 1 *inter alia* recites: “transmitting from the technical installation and loading human-machine-interface (HMI) data of the technical installation into the assigned universal mobile control and monitoring module; and controlling the technical installation using the HMI data loaded into the assigned universal mobile control and monitoring module, wherein said loading of the HMI data for the control of the technical installation into the assigned universal mobile control and monitoring module is controlled as a function of a distance from the technical installation to the assigned universal mobile control and monitoring module.”

For example, the transmission and loading of the HMI data that is used to control the technical installation is based on the position of the mobile control and monitoring module with respect to the assigned technical installation such that certain functions may be implemented only from a certain distance from the technical installation and certain other functions for this same assigned technical installation may be implemented at a different distance with respect to that same technical installation. In other words, types of HMI data that are loaded into the mobile control module at least in part depend on the distance of the module from the technical installation (e.g., ¶¶ 21 and 22 of the specification). It will be appreciated that the foregoing remarks relate to the invention in a general sense, the remarks are not necessarily limitative of any claims and are intended only to help the Examiner better understand the distinguishing aspects of the claim mentioned above.

The Examiner fails to address these previously added features of claim 1 but simply alleges that Kretschmann discloses the above-quoted unique features of claim 1 but for the controlling of the technical installation. The Examiner further alleges that Elsbree cures the above-identified deficiencies of Kretschmann by disclosing a user interface 322 used to control the machine 320 (*see* page 3 of the Office Action). Applicant respectfully disagrees.

Kretschmann only discloses providing from the central processor 12 portions of a control process that relate to a machine 18 associated with the portable HMI 28 (Figs. 1-3; col. 5, line 66 to col. 6, line 12). Kretschmann further discloses a locator that provides to the terminal outputs from a given machine based on the location signal (col. 2, lines 46 to 60). Kretschmann does not disclose or suggest controlling the data loaded into the HMI 28 based on the distance of the HMI 28 from the assigned technical installation. That is, Kretschmann does not disclose or suggest controlling the machine as a function of the location.

In Kretschmann, there is no disclosure or suggestion of, for example, blocking only certain function if the HMI 28 is too far away from the machine and allowing the HMI 28 to execute more and more functions as the HMI 28 gets closer to the technical installation and then again blocking certain functions when the HMI 28 is too close to the technical installation. In other words, Kretschmann does not disclose or even remotely suggest controlling the loading of the HMI data into the assigned universal mobile control and monitoring module as a function of a distance from the technical installation to the mobile module.

Furthermore, as acknowledged by the Examiner, Kretschmann does not disclose or suggest controlling the technical installation via HMI 28 as a function of distance (*see* page 3 of the Office Action). The Examiner relies on Elsbree for these unique features of claim 1. Elsbree, however, simply discloses a user interface 322 provided on the machine 320 that is to be

controlled. In other words, Elsbree does not disclose or suggest a mobile unit controlling a remote machine but simply discloses a machine 320 that has a user interface 322 embedded into the machine to control the processes executed by this machine 320 (Fig. 3A; col. 10, lines 14 to 30). In other words, Elsbree does not cure the above-identified deficiencies of Kretschmann in that it also fails to disclose or suggest a mobile user interface controlling the machine.

If one of ordinary skill in the art would have combined the two references in the manner suggested by the Examiner, then the user interface for controlling the machine would be built into the machine as disclosed by Elsbree while the monitoring would be performed by the HMI 28 as disclosed by Kretschmann. In addition, these reference, taken alone or in any conceivable combination fail to disclose or suggest controlling the loading of HMI data as a function of distance from the technical installation.

Therefore, “transmitting from the technical installation and loading human-machine-interface (HMI) data of the technical installation into the assigned universal mobile control and monitoring module; and controlling the technical installation using the HMI data loaded into the assigned universal mobile control and monitoring module, wherein said loading of the HMI data for the control of the technical installation into the assigned universal mobile control and monitoring module is controlled as a function of a distance from the technical installation to the assigned universal mobile control and monitoring module,” as set forth in claim 1 is not suggested by the combined disclosures of Kretschmann and Elsbree, which lack controlling the technical installation using the HMI data and controlling the technical installation as a function of the distance from the technical installation to the mobile module. For at least these exemplary reasons, claim 1 is patentable over Kretschmann in view of Elsbree. Accordingly, Applicant

respectfully requests the Examiner to withdraw this rejection of claim 1 and its dependent claims 2, 3, 5-12, 37, 38, 41, and 45-49.

In addition, dependent claim 12 recites: “wherein at least one type of the HMI data is blocked when the assigned universal mobile control and monitoring module is in close physical proximity to the technical installation.” Applicant respectfully submits that the prior art of record fails to disclose or suggest blocking certain types of HMI data from being loaded onto the mobile module when the module is in close proximity to the machine. For at least these additional exemplary reasons, claim 12 is patentable over the prior art of record.

Dependent claim 49 recites: “wherein the technical installation determines at least one type of the HMI data, from a plurality of types of the HMI data that belong to the technical installation, to transmit to the assigned universal mobile control and monitoring module based on location of the assigned universal mobile control and monitoring module.”

That is, in an exemplary embodiment of the present invention, various types of data are available for each machine such as data to control a certain function of a machine, data to monitor input data or output data of a machine, data to force a machine to execute internal processing or a certain operation and so on. Which of these types of data for monitoring and controlling this machine can be downloaded into the mobile module depends at least in part on the location of the mobile module. For example, if the mobile module is far away from the machine, only types of data related to the HMI for monitoring the processes of the machine may be downloaded. On the other hand, for example, if the mobile module is close to the machine, then the types of data related to the HMI for controlling the machine can be downloaded in addition to the types of data related to the HMI for monitoring the machine. It will be appreciated that the foregoing remarks relate to the invention in a general sense, the remarks are

not necessarily limitative of any claims and are intended only to help the Examiner better understand the distinguishing aspects of the claims mentioned above.

The Examiner simply alleges that the above-noted unique features were described above (see page 6 of the Office Action). Specifically, the Examiner appears to allege that depending on the location of the HMI 28 as disclosed by Kretschmann, different data (*i.e.*, data pertaining to different machine) will be loaded into the HMI. However, Kretschmann does not disclose or suggest loading different types of data for the same machine depending on the location of the HMI. Elsbree does not cure at least these exemplary deficiencies of Kretschmann. For at least these additional exemplary reasons, claim 49 is patentable over the prior art of record.

Next, independent claim 15 recites features similar to, although not necessarily coextensive with, the features argued above with respect to claim 1. Therefore, arguments presented with respect to claim 1 are respectfully submitted to apply with equal force here. For at least substantially analogous exemplary reasons, therefore, independent claim 15 is patentable over Kretschmann in view of Elsbree. Dependent claims 16-24, 39, 40, and 42 are patentable at least by virtue of their dependency on claim 15.

Claims 4, 13, 14, 43, and 44 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kretschmann and Elsbree in view of the Official Notice. Applicant respectfully traverses these grounds of rejection at least in view of the following exemplary comments.

Claim 4, 13, and 14 depend on claim 1 and claims 43, and 44 depend on claim 15. Applicant has already demonstrated that Kretschmann and Elsbree do not meet all the requirements of independent claims 1 and 15. Official Notices do not cure these deficiencies of Kretschmann and Elsbree. Together, the combined teachings of these references would not have (and could not have) led the artisan of ordinary skill to have achieved the subject matter of

claims 1 and 15. Since claims 4, 13, and 14 are dependent upon claim 1 and claims 43 and 44 are dependent upon claim 15, they are patentable at least by virtue of their dependency.

In addition, Applicant respectfully challenges these Official Notices and respectfully requests that a reference be provided. Contrary to the Examiner's allegations, providing an alarm message on a mobile module might be unknown in the art and as such a reference is respectfully requested. Furthermore, although mobile telephones and personal data assistants may be known, Applicant respectfully submits that their uses might be unknown in the field of automation and control of technical installation and as such a reference is respectfully requested.

With respect to this rejection of claims 43 and 44, the Examiner's position is inconsistent with the rejection of claims 43 and 44 under 35 U.S.C. § 112, first paragraph. If the Examiner alleges that one of ordinary skill in the art would not readily understand these unique features of the claims, the Examiner cannot then take an Official Notice of these features. If one of ordinary skill in the art would not readily appreciate that short range and Bluetooth protocol include the various distances set forth in these claims, then clearly Official Notice is improper and is respectfully challenged by the Applicant.

IV. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. **If any points remain in issue, the Examiner is kindly requested to contact the undersigned attorney at the telephone number listed below to set up an interview.**

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

/Nataliya Dvorson/
Nataliya Dvorson
Registration No. 56,616

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: January 18, 2008